

II. REMARKS

A. Introduction

In this Office Action claims 1-39 are noted as pending, claims 8, 9, 11, 12, 14, 15, 17, 18, 20, 21, 24-27, 31, 32, 34, 35, 38 and 39 are allowed, and independent claim 1, and claims 2-7, 10, 13, 16, 19, 22, 23, 28-30, 33, 36 and 37 depending therefrom, are rejected.

In this Response, independent claim 1 is amended to recite more expressly the motor's position relative to the axle and the front of the toy vehicle. Support can be found, e.g. on page 9, line 5 to page 10, line 14, page 14, lines 12-16, page 2, lines 10-22, page 3, lines 6-9, and Figs. 2, 4, 9 and 10.

B. Rejection of Independent Claim 1 and Dependent Claims 1-4 and 7 Under 35 U.S.C. § 103)

Claims 1-4 and 7 are rejected as being made obvious by previously cited Mabuchi et al., U.S. Patent No. 4,197,672, in combination with newly-cited Boivin, U.S. Patent No. 6,433,071. The Action admits that Mabuchi et al., fails to teach the recited motor being mounted in front and non-coaxially with a front wheel." It is noted that the actual recitation in claim 1 is "... front wheel axle", not "... front wheel", which is a significant difference apparently unrecognized by the Examiner. Nevertheless, Boivin is cited for teaching this feature.

For the following reasons, it is respectfully submitted that the present invention, as recited by amended claims 1-4 and 7, was not rendered obvious by the cited combination.

Initially, claim 1 has been amended herein to more positively recite the motor location. That is, the toy vehicle of the invention has a motor for steering the front wheels left and right while being driven in front and back directions. The toy vehicle has a front and a back, and the motor is mounted between the front wheel axle and the front of the toy vehicle. As noted in the specification, this arrangement, with the weight of the motor up front, provides at least improved road holding and operability characteristics for the toy vehicle. See, e.g., page 2, lines 10-15.

Initially, Applicant agrees that Mabuchi fails to teach a motor in front of and non-coaxially with a front wheel, as noted by the Examiner. Also, Mabuchi fails to teach a "motor in front of and non-coaxially with a front wheel axle", as recited in claim 1 herein. That is, Fig. 1 of Mabuchi is merely prior art thereto, wherein the motor 2 of the front drive and steering vehicle (See Col. 1, lines 30-40) is non-coaxial with the axle, but is behind the axle, relative to the running direction of the front wheel drive toy vehicle (towards the top Sheet 1 of 3 of the reference), so it would not appear that the teaching of Fig. 1 of Mabuchi is particularly relevant to the claimed invention. As

for Figs. 2-5 of Mabuchi, the pair of motors is co-axial with the axles of the wheels since they are connected concentrically to the axles (see Col. 2, lines 36-44 and Fig. 5), so they could not be “non-coaxial” and could not be in front of the axle.

Thus, the question under Graham v. John Deere, is whether Boivin teaches modification of Mabuchi’s structure to render claim 1 obvious, remembering that claim 1 recites that the “motor being mounted between the axle and the front of the toy vehicle.” It is respectfully submitted that the answer is no.

Boivin does not disclose any motor being mounted between the front wheel axle and the front of the railway vehicle. That is, Boivin’s railway vehicle is equipped with a number of “bogies.” As illustrated in Fig. 1, in each of the bogies, two motors 36 are provided between the two axles 6. Note the forward driving direction “F” (Fig. 1), with the axles 6 being at opposite ends, with the motors therebetween.

Boivin also teaches railway wheels which cannot be steered right and left, as they are contained by the rails 8, as is traditional with rail vehicles, and is not intended to run on a flat surface such as a floor, as would a toy vehicle. Thus, Boivin could not teach or suggest placement of a motor to improve the road holding of the front wheel, and the operability of front-wheel drive vehicle by the weight of the motor. A skilled person would not and could not improve the road holding ability of the front wheel of Mabuchi’s model racing car by combining Boivin’s motors.

Finally, Boivin discloses improvements to a railway vehicle, while Mabuchi., discloses improvements in a model racing car. The technical field of Boivin is totally different from that of Mabuchi, so one would not be inclined to even consider Boivin for modifying Mabuchi.

The remaining rejected dependent claims include at least the limitations of amended claim 1, and therefore should also be allowable over this combination. Further, these dependent claims recite additional features which, in combination, are not taught or disclosed by either reference or the combination thereof.

C. Rejection of Claims 1-4 and 19 Under 35 U.S.C. Section 102 or 103

Initially, the rejection is not fully understood. Is the Section 102 rejection based on a combination of the two references, which is not appropriate under 35 U.S.C. Section 102, or one or the other reference, and if so, which one. Nevertheless, for the following reasons, it is respectfully submitted that the present invention, as recited by these claims was neither anticipated nor rendered obvious by either or both references.

The above comments regarding Boivin are expressly incorporated herein. Claim 1 positively recites a front and a back to a toy vehicle, and has defined the motor as being between the front axle and the front of the toy vehicle. Boivin, simply fails to teach any such arrangement of its motors, as noted above.

Wolf et al., like Boivin, is a vehicle that runs on rails, so the wheels thereof cannot be turned right and left, so it suffers from the same drawbacks noted above in relation to Boivin. Also, Wolf et al.'s motor 32 sits over the axle (see, e.g., Fig. 3), so it cannot be mounted between the axle and the front of the vehicle. Thus, any attempt to rely upon either reference or the combination of their respective features, still could not arise to the invention recited in amended claim 1. As claims 2-4 and 19 include at least these features, and additional features, these dependent claims are also not anticipated nor rendered obvious by the cited prior art.

D. Rejection of Dependent Claims 5, 6, 10, 13, 16, 19, 22, 23, 28-30, 33 and 36-37 Under 35 U.S.C. § 103

These dependent claims are rejected as being made obvious by the above combination with Wu, U.S. Patent No. 6,371,830 or Tai-Cheng U.S. Patent No. 4,743,214 or Belton U.S. Patent No. 5,785,576 or D'Andrede et al., or Hoeting et al., all previously cited, or newly-cited Wolf et al., U.S. Patent No. 5,583,844, each of which is cited for teaching secondary features.

Each of these dependent claims ultimately from amended independent claim 1 discussed above in relation to the core Mabuchi/Boivin combination. Those above comments are expressly incorporated herein and based thereon, these dependent claims should also be allowable.

Further, each of these dependent claims recites additional features that are not taught by Wu, Tai-Cheng, Belton, D'Andrede et al., Hoeting et al. (see, e.g., comments in earlier responses regarding the teaching of these references), and/or newly cited Wolf et al., which is discussed above.

III. CONCLUSION

In light of the above amendments and remarks, it is respectfully submitted that claims 1-39 are now in condition for allowance.

If there are any additional fees associated with this Response, please charge same to our Deposit Account No. 19-3935.

Finally, if there are any formal matters remaining after this Response, the undersigned would appreciate a telephone conference with the Examiner to attend to these matters.

Respectfully submitted,

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